

BEAVER CREEK TOWNSHIP ORDINANCE NO. 29

Liquor License and Control Ordinance

Adopted: 4/11/2005

Effective: 5/21/2005-- 30 days following publication after adoption.

An Ordinance to establish procedures and standards for review of applications, renewals and revocations of licenses to sell beer, wine or spirits (alcoholic liquor) to regulate and enforce the distribution, sales, and consumption of beer, wine and spirits and to establish penalties for the violation thereof.

BEAVER CREEK TOWNSHIP

CRAWFORD COUNTY, MICHIGAN

ORDAINS:

SECTION I

Title

This Ordinance shall be known and may be cited as the Beaver Creek Township Liquor License and Control Ordinance.

SECTION II

Application for New License

- A. **Application.** Application for a license to sell beer, wine or spirits for consumption on the premises shall be made to the Township Board in writing, signed by the applicant if an individual, or by a duly authorized agent thereof if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:
1. The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the name and address of such person.
 2. The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.
 3. The character of business of the applicant, and in the case of a corporation, the object for which it was formed.
 4. The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued.
 5. The location and description of the premises of place of business, which is to be operated under such license.
 6. A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.
 7. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this ordinance or the laws of the State of Michigan.
 8. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the township in the conduct of its business.

9. The applicant shall be accompanied by building and plot plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and where appropriate, adequate plans for screening, and noise control.

B. Restrictions on Licenses. No such license shall be issued to:

1. A person whose license, under this ordinance has been revoked for cause.
2. A person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
3. A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
4. A corporation, if any officer, manager, or director thereof, or a stock owner or stockholder owning more than five percent (5%) of the stock of such corporation would not be eligible to receive a license hereunder for any reason.
5. A person whose place of business is conducted by a manager or agent possesses the same qualifications required of the licensee.
6. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.
7. A person who does not own the premises for which a license is sought or does not have a lease therefore for the full period for which the license is issued, or to a person, corporation or co-partnership that does not have sufficient financial assets to carry on or maintain the business.
8. Any law enforcing public official or any member of the Township Board, and no such official shall be interested in any way either directly or indirectly in the manufacture for sale or distribution of alcoholic liquor.
9. For premises where there exists a violation of the applicable Building, Electrical, Mechanical, Plumbing or Fire Codes, applicable Zoning Regulations, applicable Public Health Regulations, or any other applicable Township ordinance.
10. For any new license or for the transfer of location within the Township of any existing license unless the sale of beer, wine, or spirits for consumption on the premises is shown to be incidental and subordinate to other permitted business uses upon the site, such as but not limited to food sales, hotel and motel operations, or recreational activities.
11. For premises where it is determined by a majority of the board that the premises do not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control or where a nuisance does or will exist.
12. Where the board determines, by majority vote, that the proposed location is inappropriate considering the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; the attitude of adjacent residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of the inconsistent zoning classification; and accessibility from primary roads or state highways.
13. No Class C Liquor License for consumption on the premises shall be approved by the township until a contract has been executed by the applicant with the township prohibiting the sale or transfer of such license directly or through any escrow prohibiting the sale or transfer of

such license directly or through escrow status for use outside the jurisdiction of the township. Such contract shall provide for liquidated damages to the township and sanctions for any violation thereof to compensate the township for the reduction in the number of such liquor licenses available within the township and as a penalty for violation of the terms and conditions of such Class C license approval. Such contract may provide for a fixed amount of liquidated damages or for forfeiture of the full sale or transfer price paid or payable to the transferee or, together with interest on any unpaid balance until the same is paid.

- C. **Term of License.** Approval of a license shall be for a period of one year subject to annual renewal by the Township Board upon continued compliance with the regulations of this ordinance. Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six months of the action of the Township Board or the Michigan Liquor Control Commission approving such license whichever last occurs. Any unusual delay in the completion of such remodeling or construction may subject the license to revocation.
- D. **Reservation of Authority.** No such applicant for a liquor license has the right to the issuance of such license to him, her or it, and Township Board reserves the right to exercise reasonable discretion to determine whom, if anyone shall be entitled to the issuance of such license. Additionally no applicant for liquor license has the right to have such application processed and the Township Board further reserves the right to take no action with respect to any application filed with the Township Board. The Township Board further reserves the right to maintain a list of all applicants and to review the same when, in its discretion, it determines that the issuance of an additional liquor license is in the best interests of the township at large and for the needs and convenience of its citizens.
- E. **License Hearing.** The Township Board shall grant a public hearing upon the license application when, in its discretion, the Board determines that the issuance of an additional liquor license is in the best interests of the township at large and for the needs and convenience of its citizens. Following such hearing the Board shall submit to the applicant a written statement of its findings and determination. The Board's determination shall be based upon satisfactory compliance with the restriction set forth in Paragraph B.1 through 13 above.

SECTION III

Objections to Renewal and Request Revocation

- A. **Procedure.** Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Commission, the Township Board shall serve the license-holder, by first class mail, mailed not less than ten days prior to hearing with notice of a hearing, which notice shall contain the following:
 1. Notice of proposed action.
 2. Reasons for the proposed action.
 3. Date, time and place of hearing.
 4. A statement that the licensee may present evidence and testimony confront adverse witnesses.

Following the hearing, the Township Board shall submit to the license holder and the Commission a written statement of its findings and determination

- B. **Criteria for Non-renewal or Revocation.** The Township Board shall recommend non-renewal or revocation of a license upon a determination by it that based upon a preponderance of the evidence presented at hearing either of the following exist:
 1. Violation of any of the restrictions on licenses set forth in Paragraph B.1 through 13 above; or
 2. Maintenance of a nuisance upon the premises.

SECTION IV

Enforcement of Township Liquor License and Control Ordinance

- A. **Liquor Control Code of the State of Michigan.** All alcoholic liquor traffic, including among other things, the manufacture, sale, offer for sale, storage for sale, possession and/or transportation thereof within Beaver Creek Township, Crawford County, Michigan, shall comply with the provisions of the Michigan Liquor Control Code being Act No. 58 of the Michigan Public Acts of 1998 as amended.
- B. **Enforcement.** For the purpose of the enforcement of said Michigan Liquor Control Code within said township, there is hereby established a Liquor Control Enforcement Department with full power, authority, and duty to see that the provisions of said Code and the rules and regulations of the Michigan Liquor Control Commission, adopted pursuant to said Code, are enforced within said Township. Such department shall consist of not less than one constable, deputy sheriff, or Ordinance Enforcement Officer appointed by the Township Board and such other personnel as the Township Board may, in its discretion, appoint. The personnel in such department shall be entitled to such compensation as the Township Board may determine. Such department or member thereof shall be available at all times to investigate complaints received under this ordinance, and enforce the provisions hereof.
- C. **Inspections.** The Township Liquor Control Enforcement Department shall inspect not less than monthly, all alcoholic liquor establishments licensed under the Liquor Control Code of the State of Michigan and report the results of all inspections promptly to the Township Board. The Township Liquor Control Enforcement Department shall further promptly investigate all complaints received by it concerning violations of the Michigan Liquor Control Code, or improper operations and practices concerning alcoholic liquor traffic within the Township, and report the same to the Township Board and, where appropriate under the Michigan Liquor Control Code, to the Michigan Liquor Control Commission for appropriate proceedings against the violator.
- All inspectors shall carry appropriate cards issued by the Township Clerk, clearly identifying them as township liquor control inspectors and shall present said cards to the owner or manager of every place inspected by them when making an inspection, upon demand for identification by such owner and manager.
- Inspectors shall have the right to inspect any place in the township where alcoholic liquor is manufactured, sold, offered for sale, kept for same, or transported for sale, or where the inspector suspects the same is being thus manufactured, sold, offered for sale, kept for same, or transported for sale. Whenever possible all inspectors reports shall be made on liquor law enforcement inspection forms furnished by the Michigan Liquor Control Commission or on similar forms otherwise obtained by the Township Liquor Control Commission or on similar forms otherwise obtained by the Township Liquor Control Enforcement Department.
- D. **Appropriation.** For the purpose of carrying out the provisions of this ordinance and establishing the Liquor Control Enforcement Department herein provided for, the Township Board shall appropriate monies, as it deems necessary.
- E. **Procedures for Violations and Penalties.** Any Licensee, person, firm or corporation who shall violate any of the provisions of this ordinance of the Michigan Liquor Control Code or any rule or regulation of the Michigan Liquor Control Commission promulgated there under, and any person who shall prohibit or interfere with the authorized inspection of a member of the Township Liquor Control Enforcement Department shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 90 days or by a fine of not more than \$500.00 or both, in the discretion of the court. Each day that a violation continues to exist shall constitute a separate offense.

SECTION V

Severability

Should any section or part thereof of this Ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall no affect the validity of the remaining sections or parts thereof of this Ordinance.

SECTION VI

Effective Date

This Ordinance shall take effect 30 days following publication after enactment.

SECTION VII

Repeal of Certain Pre-existing Ordinances

Any Ordinance or part of an Ordinance which is in conflict or inconsistent with this Ordinance is hereby repealed including the repeal in its entirety of Ordinance III adopted October 15, 1979, entitled Liquor Control Ordinance.

Motion by Balmes and seconded by Little to adopt Ordinance No. 29.

AYES: Balmes, Summers, Little, Riley and Hartman. Nays: 0.

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Sharon K. Hartman, Clerk